

**PROCEEDINGS OF THE BROWN COUNTY  
PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE**

Pursuant to Section 19.84 Wis. Stats., a regular meeting of the **Brown County Planning, Development & Transportation Committee** was held on Monday, April 26, 2010 in the Auditorium of the AG & Extension Center, 1150 Bellevue Street, Green Bay, WI

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**Present:** Norb Dantinne, Bernie Erickson, Mike Fleck, Dan Haefs, Dave Kaster  
**Also Present:** Tom Hinz, Jayme Sellen, Fred Mohr, Tom Miller, Chuck Lamine, Bill Bosiacki, Cathy Williquette, Brian Lamers. Supervisors Clancy, Krueger, Schuller, Scray  
Other Interested Parties and Media.

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**I. Call Meeting to Order.**

The meeting was called to order by Senior Member Supervisor Haefs at 6:36 p.m.

**II. Approve/Modify Agenda.**

A motion was made by Supervisor Fleck and seconded by Supervisor Dantinne to approve. Vote taken. **MOTION CARRIED UNANIMOUSLY.**

**III. Election of Chair.**

A motion was made by Supervisor Fleck to nominate Supervisor Erickson as Chair of the Planning, Development and Transportation Committee.

Supervisor Erickson elected as Chair by unanimous ballot.

**IV. Election of Vice Chair.**

A motion was made by Supervisor Kaster to nominate Supervisor Fleck as Vice-Chair of the Planning, Development and Transportation Committee.

Supervisor Fleck elected as Vice-Chair by unanimous ballot.

**V. Set date and time for regular meetings.**

PD&T Committee meetings will be held the 4<sup>th</sup> Monday of the month following Land Conservation Sub committee at approximately 6:30 p.m. (November through April) and at approximately 7:30 p.m. (May through October).

**VI. Approve/Modify Minutes of the March 22, 2010.**

A motion was made by Supervisor Kaster and seconded by Supervisor Fleck to approve. Vote take. **MOTION CARRIED UNANIMOUSLY.**

1. Review minutes of:
  - a. Solid Waste Board (February 15, 2010).

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**Communications**

2. Communication from Supervisor Scray re: With fears of revenue from the State and Federal sources being cut, I am asking each Department Head to decide ahead of time where they could cut another 10%, if needed, while doing their budget process. This may include mandated services that department heads feel are not beneficial to County and the penalties are not severe. *Held for 30 days.*

**A motion was made by Supervisor Fleck and seconded by Supervisor Dantine to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**Register of Deeds**

3. Budget Status Financial Report for January & February, 2010.

Register of Deeds Cathy Williquette stated that they were on target with the budget. She noted the resolution the committee signed last year with regards to a change in the recording fees from a per page to a flat fee made it all the way through both houses this year and passed the Senate. With this, there will be a significant increase in recording fees for the Register of Deeds. The real estate activity is picking up as well.

**A motion was made by Supervisor Fleck and seconded by Supervisor Dantine to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

4. 2009 Annual Report.

Williquette referred to information in the packet and briefly went over it with the committee. Referring to the \$1.8 million in fees transferred to the State in 2009, Dantine questioned what does the State do for their department. Williquette explained that on the transfer fees, even though they are collecting \$3 per \$1,000, the State gets 80% of the fee. Williquette answered that the State does nothing for their department. For the birth fees, they charge the customer \$20 and the department keeps \$7 out of it. She stated two years ago the State had taken a bump on the marriages and deaths as well because they saw how many they were selling and they were looking for revenue and their department was a good source for them to collect from. Dantine interjected that the State of Wisconsin gets almost \$2 million dollars a year out of that department for doing nothing and he felt that was not right. Williquette stated that when she started in 1979 it was 50/50 and then they increased it to 80/20.

Supervisor Haefs stated he had a general comment that applies to all Brown County Department Heads that were at the meeting. As stated before, things are tough out there, and what is happening is he has gotten a little distrustful of county government. It is surprising to him that supervisors go through all the committee meetings and procedures and then find out that they had voted for budgets for years where people are getting \$54 a day for meal reimbursements. Supervisors have asked where they can cut or to tell them things they may not know and then all of the sudden he finds out he voted for budgets where people got over 2,000 hours of overtime. Haefs would like total honesty about these

issues. When times are tough where his constituents can't afford anything anymore, this upsets him. He felt that some department heads knew about the meal reimbursement wages and simply from the standpoint of services to taxpayers they didn't want to be the bad guy on the block and refused to say it was ridiculous. Haefs felt this was not what staff is being paid for. Staff are being paid to come forward with honesty and tough decisions and to let the Board decide what is fair and what is not. A lot of these things come forward because someone just happens to find out about it. Ultimately we are working for the taxpayers and they do not have these luxuries. Meal reimbursements are systemic and he believes there is more of it and feels he is becoming quite cynic to the entire system.

**A motion was made by Supervisor Dantinne and seconded by Supervisor Fleck to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**Highway**

**5. March 2010 - Budget to Actual Reports.**

**A motion was made by Supervisor Dantinne and seconded by Supervisor Fleck to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**6. Discussion and possible action re: WI Hwy 29 and Cty Rd EA connectivity determination options 1-4.**

Handouts were distributed which were sent to the Wisconsin DOT from the Village of Bellevue stating they have selected Alternative #4, and a second letter from Ledgeview selecting Alternative #2 (attached). A response from the Brown County Highway Department is also attached explaining they, in concurrence with the Brown County Planning Department, support Alternative #2. The State will be informing the County and the other municipalities of their preference in the near future.

Supervisor Kaster explained that the Bellevue Village Board selected Alternative #4 for the following reasons:

- Serves as the safest route by providing the greatest site distance and ideal intersection design.
- Most advantageous for commercial development by providing maximum visibility.
- Protects existing residential property owners in the Meadow Circle Subdivision and Manitowoc Road
- The public input from residents at the open house rated Alternative #4 higher than Alternatives 1 and 3, and equal to Alternative 2.

Ledgeview on the other hand chose Alternative #2 for the following reasons:

- This alternative is reflected in the adopted Ledgeview Comprehensive Plan and related to the Ledgeview Business Park Master Plan.
- This alternative has the least impact on area landowners
- This alternative potentially has the least environmental impacts.
- This alternative will provide a safe and efficient connection to I-43 at a much lower cost than other options.

Brown County chose Alternative #2 because it was included in the original plans designed for the CTH EA corridor; is reflected in adopted comprehensive and development plans; potentially has the least environmental impact; has the least impact on area landowners; and will provide a safe and efficient connection to I-43 at a much lower cost than the other build

options. Lamers asked that this item be held for 30 days in order for the State to appear before this committee.

**A motion was made by Supervisor Dantine and seconded by Supervisor Haefs to hold for 30 days.**

**A motion was made by Supervisor Kaster and seconded by Supervisor Dantine to suspend the rules to have interested parties speak. Vote taken.**

**MOTION CARRIED UNANIMOUSLY.**

**Frank Radosevich – 3761 Willow Road, Green Bay**

Mr. Radosevich, a resident of Bellevue, stated that he understands the concerns of the residents living between Willow Road and Hwy 29, pointing out that the road is very narrow. He opined that if there is a 4 lane leading to Willow Road, changing to 2 lanes, it will not be able to handle the future growth population.

**A motion was made by Supervisor Haefs and seconded by Supervisor Dantine to return to regular order of business. Vote taken.**

**MOTION CARRIED UNANIMOUSLY.**

**Motion to hold for 30 days Carried Unanimously**

**7. Director's Report.**

Brian Lamers distributed a letter received from Steven Meyers of Bay View Middle School addressing the new roundabout in operation at the intersection of Cardinal and Woodale (attached). Mr. Meyers expressed appreciation for how well the roundabout has contributed to the traffic and safety of the intersection in front of the school. He stated that when the intersection was a 4-way stop, cars were sometimes lined up 15-20 deep on Cardinal Lane. With the roundabout, there have been no more than 2-3 cars entering the intersection at any time. In addition, Meyers stated he has received no complaints or concerns regarding traffic flow, or safety. He thanked the Highway Department for their quality planning.

Lamers added to his report that there will be a Public Advisory Meeting held tomorrow, 4-27-10, to discuss alternatives which could impact work on County D and DD.

Supervisor Haefs addressed the difficulty of new supervisors who are asked to vote on a bond issue with no background.

**A motion was made by Supervisor Fleck and seconded by Supervisor Kaster to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**Highway/Planning Commission**

**8. Updates on CTH GV (standing item).**

Questions by Supervisor Kaster regarding shifting the road were addressed by Commissioner Lamers.

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to receive and place on file. Vote take. MOTION CARRIED UNANIMOUSLY.**

**Planning and Land Services**

**Land Information** – No Agenda Items.

**Planning Commission**

9. **Budget Status Financial Report for February & March, 2010.**  
Lamine reported that the budget is on schedule for the departments of Planning, Property Listing, and Zoning.

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to receive and place on file. Vote taken.**  
**MOTION CARRIED UNANIMOUSLY.**

Supervisor Haefs asked if the County plans to sell their excess land. Lamine replied that because the reality is that there is more land than developers, the opinion is that until the market turns, it is best to wait. Haefs asked for quarterly reports.

**Property Listing**

10. **Budget Status Financial Report for February & March, 2010.**

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to receive and place on file. Vote taken.**  
**MOTION CARRIED UNANIMOUSLY.**

**Zoning**

11. **Budget Status Financial Report for February & March, 2010.**  
Bill Bosiacki reported that expenditures and revenues, in addition to permits and public charges are progressing as anticipated.

**A motion was made by Supervisor Fleck and seconded by Supervisor Dantine to receive and place on file. Vote taken.**  
**MOTION CARRIED UNANIMOUSLY.**

12. **Resolution re: Authorizing an Application for a Lake Protection and Ordinance Development Grant from the Wisconsin Department of Natural Resources.**

Bosiacki addressed the resolution as included in packet material, explaining that revisions to Chapter NR 115, Wisconsin Administrative Code, were adopted by the State and is in effect as of February 1, 2010. Wisconsin counties have two years to update their shoreland development rules to be consistent with Wisconsin rules. As Brown County is responsible for the regulation of the use and development of unincorporated shoreland areas, they are required to update its shoreland development rules to be consistent with Wisconsin rule.

Bosiacki explained that grant funds are currently available for development or amendment of local regulations to ensure consistency with the new NR 115 regulations. Approval of the County Board is required for application.

**A motion was made by Supervisor Dantine and seconded by Supervisor Fleck to approve. Vote taken. MOTION CARRIED UNANIMOUSLY.**

13. **Grant Application Review (#10-08): Lake Management Protection and Ordinance Development Grant.**

Refers to Item 12 above.

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to approve. Vote taken. MOTION CARRIED UNANIMOUSLY.**

**Airport**

14. **Airport Marketing RFP Results/Approval.**

Airport Director, Tom Miller, referred to RFP score sheets for the Airport marketing consultant services as included in packet material. Five proposals were received, with two rejected as they did not properly meet criteria. Those scored include Arketype of Green Bay, Staples Marketing of Pewaukee, and The Team of Ozark, MO.. A Selection Team was created to score each of the vendors, with the consensus to choose the high scorer Arketype of Green Bay.

**A motion was made by Supervisor Fleck and seconded by Supervisor Dantine to approve. Vote taken. MOTION CARRIED UNANIMOUSLY.**

15. **Airport Budget Status Financials for February 2010.**

Miller reported that through February expenses are in line with anticipated projections. On the revenue side, Miller stated that it appears PFC's and capital contributions are lagging due to a timing issue. As State and Federal funded projects progress in 2010, he expects revenue in this category will come in line with the budget.

**A motion was made by Supervisor Fleck and seconded by Supervisor Haefs to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY.**

16. **Director's Report.**

Miller highlighted the following activities during the last reporting period:

- The State has taken bids on a 125,000 sq ft aircraft ramp for the new jet air facility to be located on the far east end of the Airport. Construction will start within the next 3 to 4 weeks and will be completed by mid-July.
- LZ Lambeau activities are scheduled for May 21<sup>st</sup> to the 23<sup>rd</sup>. Although much of the activity will take place at Lambeau Field, there will be events at the Airport, one including a display of vintage aircraft. A security plan will be in place with all costs paid by the organization.
- Frontier Airlines started service this past week and are doing quite well with non-stop service to Denver. Continental service to Cleveland will start next week.
- A report of employees working over 12 hours in a 24 hour period for the month of February was distributed and is attached. There were no 12 hour shifts in March because there was not a need for snow removal.
- The snow equipment building is expected to be enclosed by mid-May
- When asked about attendance at County Board meetings, Miller indicated that he attends if there is an Airport item on the agenda.

A motion was made by Supervisor Dantine and seconded by Supervisor Haefs to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

17. A closed session pursuant to sec. 19.85(1)(e), Wis. Stats., to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. -- Airport Gift Shop Contract.

A motion was made by Supervisor Haefs and seconded by Supervisor Fleck to enter into closed session. Roll Call . All Present.  
MOTION CARRIED UNANIMOUSLY

A motion was made by Supervisor Haefs and seconded by Supervisor Fleck to return to regular order of business. Roll Call. All Present.  
MOTION CARRIED UNANIMOUSLY

A motion was made by Supervisor Kaster and seconded by Supervisor Dantine to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Public Safety/Late Communication

18. Discussion re: Placement of Wind Turbines and the impact on Microwave Radio Links. *Referred from March County Board.*

Board Attorney Fred Mohr, and Corporation Counsel John Luetscher were present and distributed their ruling on this issue (attached). Chairman Erickson indicated that both counsels have concluded that at this point wind turbines over 100 megawatts are not under the jurisdiction of the County. In addition, it was determined that land use is not controlled by the County because of non-County wide zoning. Mohr clarified that when it comes to systems over 100 megawatts, the County has no jurisdiction whatsoever, and cannot inhibit permitting. Based on statutory and case law, Mohr stated it is his opinion that Brown County does not have the authority to limit or restrict a project exceeding 100 megawatts such as the proposed Ledge Wind Energy, LLC, project. In regard to smaller projects, Mohr stated that the County does not presently have zoning laws which would impact the use of wind turbine systems as the zoning authority rests within the individual towns, cities, and villages in the County. He added that any resolution adopted by Brown County in regard to the use of wind turbines would be advisory in nature.

John Luetscher added that counties do have limited authority to regulate wind energy systems with nominal operating capacities under 100 megawatts, allowing them to restrict wind and solar energy systems within limits. His opinion on the suggestion that Brown County enact a wind energy system ordinance is that it would exclusively apply in the Town of Scott and would "compete" with Town ordinances regulating wind energy systems in the 12 other towns. In light of this, it is his opinion a countywide wind energy ordinance would have little or no impact on wind energy systems here or for county residents.

Chairman Erickson announced that there is a joint meeting scheduled between the Health Department and Human Services, along with members of the regulatory commission on Tuesday, May 25, 2010 at 5:30 p.m.

**A motion was made by Supervisor Dantine and seconded by Supervisor Fleck to suspend the rules to allow interested parties to speak. Vote taken.**

**MOTION CARRIED UNANIMOUSLY**

**Steve Deslauriers – 2889 Wayside Road - Greenleaf, Town of Holland**

Referred to a communication from Attorney Edward Marion of Madison, Wisconsin as requested by Carl Kuehne (attached). Mr. Marion disagrees with the opinions of John Luetscher and Fred Mohr that Brown County has no authority to regulate large wind energy systems, stating it is his opinion that the County does have the power to, and good reasons to, enact and enforce a wind energy system ordinance applicable to large wind energy systems (letter attached). He did agree that a large electric generating facility (over 100 megawatts) cannot be built without the approval of the Public Service Commission. However, for projects that are less than 100 megawatts, it is the opinion of Mr. Marion that the County does have authority to restrict the installation or use of a wind energy system, as long as they do so in an ordinance, which serves to preserve or protect public health and safety. Marion also states that nothing prohibits a local government from enacting a wind energy system ordinance and applying it to a 100 or more megawatt system in the absence of a PSC decision, noting that the very existence of such an ordinance would influence the PSC's decision whether or not to approve an application. Marion went on to say that if the County is silent with respect to large wind energy systems, it may tell the PSC that the County has no problem with such a system.

Attorney Mohr clarified that he and Mr. Luetscher were talking in terms of regulating projects over 100 megawatts, stating he agrees there is authority to regulate, within the bounds of the statutes, systems under 100 megawatts. Any ordinance developed by the townships, however, would need to be compliant with the standards set by the PSC.

**Curt Skaletski – 3232 Wayside Road, Town of Morrison**

Mr. Skaletski stated he and his family are very troubled by this proposal and are looking for representation at a local level.

**Gary Koomen – 7648 Morrison Road, Town of Morrison**

Stated as a landowner he is concerned with property value, indicating that he should have something to say about what goes on with his property.

**Curtis Hilgenberg – 7312 Holly-Mor Road, Town of Holland**

Stated he is under contract with Ledge Wind Energy System. When the project was first proposed, he felt it was a great idea, free energy, green, however, he now finds that he signed the contract too quickly and did not have an attorney review it. He is sorry for that as the more he learns, he has found there are definite problems.

**Richard Koltz – 2372 Day Street, Greenleaf**

Stated that although he understands both sides of the issue, feels he is in the middle. He signed a contract with Ledge Wind Energy last May for one turbine. After doing that, he visited a turbine site in Fond du Lac discovering it was not a good situation and after doing more research, became more doubtful.

**Harvey Hazeland, County Z, Hill Road**

Stated he owns 400 acres of agricultural land and signed up for as many turbines as he can get as he believes it is safe energy. He spends time in Arizona and after installing solar panels and "harvesting" the sun stated he cut his energy bill/hot water bill in half. In Wisconsin there are not good solar possibilities, but there is a great wind current. He states this is the safest kind of energy that can be found when looking at coal mining and oil disasters. He feels that wind is a good, clean source of energy.



**Mark Deslauriers – 8042 Holly-Mor Road, Town of Holland**

Stated he has two small boys and does not want anyone to jeopardize their health or safety. Indicated that the Town Board and Brown County should be looking out for the health and safety of families in Brown County.

**Sandy Johnson – 1893 Wayside Road, Greenleaf, Town of Holland**

Ms. Johnson is a retired teacher. She has had contact with a farmer in Canada who has a video on the web regarding this issue. He worked for a wind farm in Ontario, Canada, hired to look for homes who had pollution problems. He also worked for public service companies and windmill companies and stated that the failures in public delivery systems have manifested in significant and extremely dangerous power quality issues, meaning that the grids do not accommodate the power generated by the large turbines.

**Barbara VandenBoogart – 7643 Holly-Mor Road**

Stated she is very upset because of this issue that is deeply concerning and is asking that the committee do something about the evidence that wine turbine are dangerous.

**A motion was made by Supervisor Dantine and seconded by Supervisor Kaster to return to regular order of business. Vote taken. MOTION CARRIED UNANIMOUSLY**

Chairman Erickson questioned what authority this committee has, however, stated that the committee will review the information that has been presented and will then forward to the County Board.

Supervisor Haefs complimented the speakers for their sincere presentations, stating that advice from counsel indicates that anything done by the County Board will be considered advisory. The least they can expect from the County Board will be to render an opinion. Haefs stated he would like to hear from the supervisors representing the involved communities in the form of a recommendation that they are in favor of windmills, or oppose them.

Various comments were made by committee members with Supervisor Krueger stating it not unusual for area legislatures to be asked to rewrite laws. Chairman Erickson reiterated the joint meeting that will be held on May 25<sup>th</sup> with the Board of Health and Human Services to further discuss this issue.

Supervisor Haefs indicated that although there will be no conclusion to this issue at this time, the County Board will do further review with the understanding that the supervisors in the associated districts follow through. As a supervisor for the respective district, Supervisor Clancy suggested that the item be tabled until after the joint meeting with the Human Services Committee and Health Department on May 25<sup>th</sup> so that all facts have been presented. He added there will be a public hearing scheduled, requesting all County Board members be responsible in their research so that a conclusion can be reached.

As the joint meeting will be held on May 25<sup>th</sup>, a request was made to move the June meeting of this committee forward, prior to the 6-16-10 County Board meeting.

**A motion was made by Supervisor Haefs and seconded by Supervisor Kaster to move the date of the next PD & T meeting earlier in June. (to be announced) Vote taken. MOTION CARRIED UNANIMOUSLY**

**Port & Solid Waste** No agenda items.

**UW-Extension** No agenda items.

**Other**

7. **Audit of bills.**

A motion was made by Supervisor Fleck and seconded by Supervisor Haefs to pay the bills. Vote taken. **MOTION CARRIED UNANIMOUSLY.**

8. **Such other matters as authorized by law.**

**Motion made by Supervisor Dantine and seconded by Supervisor Kaster to adjourn at 9:30 p.m. MOTION APPROVED UNANIMOUSLY**

Respectfully submitted,

Alicia A. Loehlein/Rae G. Knippel  
Recording Secretary



Division of Transportation  
System Development  
Northeast Regional Office  
944 Vanderperren Way  
Green Bay, WI 54304

Jim Doyle, Governor  
Frank J. Busalacchi, Secretary  
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March 10, 2010

Subject: **Alternative Position Request**  
Project ID 1450-07-00  
USH 141  
IH 43 – STH 29 (IH 43 – Huron Rd)  
Brown County

Dear Brian Lamers:

The first public informational meeting (PIM) for WIS 29 Connectivity Study was held on February 11, 2010. Ten copies of the handout are enclosed for your use in recommending a preferred alternative.

Sixty (60) people attended the PIM. Forty (40) people provided comments on the alternatives shown. Representatives from the Village of Bellevue, the Town of Ledgeview and Brown County Highway Department attended the PIM and were not included in the above counts. The general comments are as follows:

- Alternative #1 was unacceptable to nearly all respondents because it does nothing to improve the safety and traffic flow in their opinion.
- Alternative #2 and #4 received an almost equal number of preferred alternative selections. Alternative #3 received only a few 'first choice' selections, but did receive quite a few 'second choice' selections with Alternative #4 as the 'first choice'.
- Many residential landowners along Huron Road north of STH 29 preferred Alternative #4 which routes future CTH EA away from the residences.
- The agricultural landowners along Huron Road north of STH 29 preferred Alternative #2 because Alternatives #3 and #4 cut through their farm fields.
- Nearly all the property owners along Wall Street prefer Alternative #2.
- Cost was a noted concern for many respondents. Many of the people who selected Alternative #2 noted cost as one of the reasons for selecting the alternative. Many who selected Alternative #4 selected it over Alternative #3 because it is nearly \$900,000 less expensive.
- Safety was noted as a concern for many respondents, especially along residential properties and at existing angled intersections.

We are requesting the Brown County Highway Dept.'s position on a preferred alternative by March 26, 2010. This is not a vote, but WisDOT will consider input from local units of government, the public, and environmental agencies when selecting a preferred option to carry into design.

Our goal is to select a preferred alternative by April 9, 2010, begin preliminary design and the environmental document immediately thereafter, and complete the study by August 6, 2010. This is an aggressive schedule and your timely input will be critical in maintaining it.

HIGHWAY DEPARTMENT

*Brown County*

2198 GLENDALE AVENUE  
GREEN BAY, WI 54303

PHONE (920) 492-4925 FAX (920) 434-4576  
EMAIL: bc\_highway@co.brown.wi.us

BRIAN L. LAMERS, CPA  
HIGHWAY COMMISSIONER

March 15, 2010

Mr. Patrick Laux, P.E.  
Program Manager – Northeast Region  
Wisconsin Department of Transportation  
944 Vanderperren Way  
Green Bay, WI 54304

RE: Project ID #1450-07-00  
STH 29/CTH EA, IH-43 to Willow Road  
Alternative Position Request

Dear Patrick Laux:

As a response to your letter dated March 10, 2010, requesting Brown County's position on a preferred alternative for the above listed project, please find the following response:

The Brown County Highway Department in concurrence with the Brown County Planning Department both support Alternative #2 for the following reasons:

- This alternative was included in the original plans designed for the CTH EA corridor.
- This alternative is reflected in adopted comprehensive and development plans.
- This alternative potentially has the least environmental impacts.
- This alternative has the least impact on area landowners.
- This alternative will provide a safe and efficient connection to I-43 at a much lower cost than the other build options.

Please feel free to give either of us a call if you wish to discuss this matter further.

Sincerely,

HIGHWAY DEPARTMENT



Brian L. Lamers, CPA  
Highway Commissioner  
(920) 662-2163

PLANNING DEPARTMENT



Chuck Lamine, AICP  
Director  
(920) 448-6484

cc: Aaron Oppenheimer, Bellevue Village Administrator  
Sarah Burdette, Ledgeview Town Administrator  
Ray Smith, Engineering & Operations Manager  
Cole Runge, County Principal Planner



## TOWN OF LEDGEVIEW

March 24, 2010

Mr. Patrick Laux, P.E.  
Program Manager – Northeast Region  
Wisconsin Department of Transportation  
944 Vanderperren Way  
Green Bay, WI 54304

**RE:                   Project ID #1450-07-00  
                      STH 29/CTH EA, IH-43 to Willow Road  
                      Alternative Position Request**

Dear Mr. Laux,

As a response to your letter dated March 10, 2010, requesting the Town of Ledgeview's position on a preferred alternative for the above listed project, please find the following response:

The Ledgeview Town Board, at a meeting held on March 16, 2010, has unanimously supported Alternative #2 for the following reasons:

- This alternative is reflected in the adopted Ledgeview Comprehensive Plan (adopted 2004/Revised 2009) and related Ledgeview Business Park Master Plan (adopted in 2006).
- This alternative has the least impact on area landowners.
- This alternative potentially has the least environmental impacts.
- This alternative will provide a safe and efficient connection to I-43 at a much lower cost than the other options.

Thank you for the opportunity to provide our position to you. If you have any comments or questions, please contact me at 920-336-3360, ext. 108 or at [sburdette@ledgeviewwisconsin.com](mailto:sburdette@ledgeviewwisconsin.com).

Sincerely,

Sarah K. Burdette, Clerk/Administrator  
Town of Ledgeview

cc:     Brian Lamers, Brown County Highway Commissioner  
          Scott Brosteau, Ledgeview Town Engineer  
          Aaron Oppenheimer, Bellevue Village Administrator  
          Cole Runge, County Principal Planner



Office of the Village Administrator

2828 Allouez Avenue, Green Bay, WI 54311  
Phone: (920) 468-5225  
Fax: (920) 468-4196  
[www.VillageofBellevue.org](http://www.VillageofBellevue.org)

April 15, 2010

Mr. Patrick Laux, P.E.  
Program Manager – Northeast Region  
Wisconsin Department of Transportation  
944 Vanderperren Way  
Green Bay, WI 54304

RE: Project ID #1450-07  
STH 29/CTH EA, IH-43 to Willow Road  
Bellevue Alternative Position Request

Dear Mr. Laux:

This letter is response to your letter dated March 10, 2010 requesting the Village of Bellevue's position on a preferred alternative for the above listed project. The Village Administration and Village Board have spent a considerable amount of time discussing this project since County Road EA will serve as a major corridor for our community.

The Bellevue Village Board has selected Alternative 4 for the following reasons:

- Serves as the safest route by providing the greatest site distance and ideal intersection design.
- Most advantageous for commercial development by providing maximum visibility.
- Protects existing residential property owners in the Meadow Circle Subdivision and Manitowoc Road.
- The public input from residents at the open house rated Alternative 4 higher than Alternatives 1 and 3 and equal to Alternative 2.

If you have any questions or concerns regarding this important matter please contact my office at 468-5225.

Sincerely,

Aaron Oppenheimer  
Village Administrator

Cc: Ted Zigmunt, State Representative  
Bernie Erickson, PDT Committee Chairman  
Brian Lamers, Highway Commissioner  
Chuck Lamine, Planning Director  
Sarah Burdette, Ledgeview Town Administrator

## Welcome

The Wisconsin Department of Transportation (WisDOT) welcomes you to the first public information meeting for the proposed alternatives for routing WIS 29 and County EA from I 43 to Willow Road in Brown County.

We invite you to inspect the project exhibits on display and visit with WisDOT representatives.

Your comments and opinions are important to us and this project. You are encouraged to provide comments and opinions in any of the following ways:

- Complete the comment form and place in the comment box at today's meeting.
- Mail the comment form to the WisDOT at the address shown on the last page of this handout.
- Submit electronically by emailing to [Patrick.Laux@dot.wi.gov](mailto:Patrick.Laux@dot.wi.gov).

Comments must be received or postmarked by February 26, 2009 in order for them to become part of the official record of this public meeting.

## Purpose of Meeting

The purpose of this meeting is to:

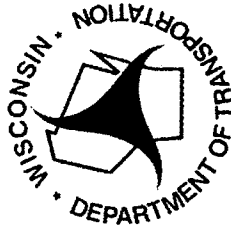
- Introduce the project and the proposed alternatives.
- Gain public input.
- Provide residents, business owners, and other interested persons an opportunity to provide comments to the project.
- Answer questions and concerns.

## Project Scope

The current study effort is to select a preferred alternative for routing WIS 29/County EA from I 43 to Willow Road. An environmental document and 30% design plans will be prepared.

## Schedule

- PIM #1 – Corridor Alternates – February 11, 2010
- PIM #2 – Selected Alternate Design Details – Early Summer 2010
- Environmental Document/30% Design Plan – Late Fall 2010
- There is no scheduled construction date. Construction is dependent on future project funding availability.

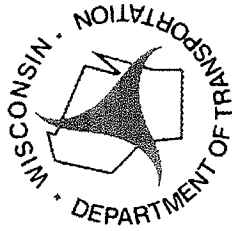


### Contact Information

Patrick Laux  
WisDOT Project Manager  
(920) 569-2098  
[Patrick.Laux@dot.wi.gov](mailto:Patrick.Laux@dot.wi.gov)

Kim Rudat  
Regional Communications Manager  
(920) 492-5743  
[Kim.Rudat@dot.wi.gov](mailto:Kim.Rudat@dot.wi.gov)

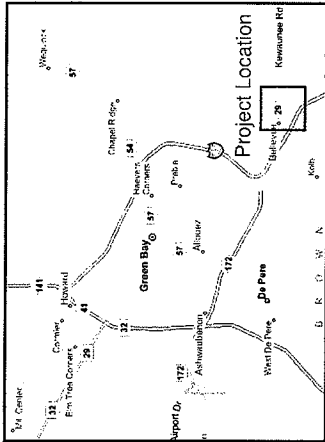
Wisconsin Department of Transportation  
944 Vanderperren Way  
Green Bay, WI 54304



WIS 29  
Connectivity Determination

Project ID: 1450-07-00

Public Information Meeting  
February 11, 2010



## LEGEND

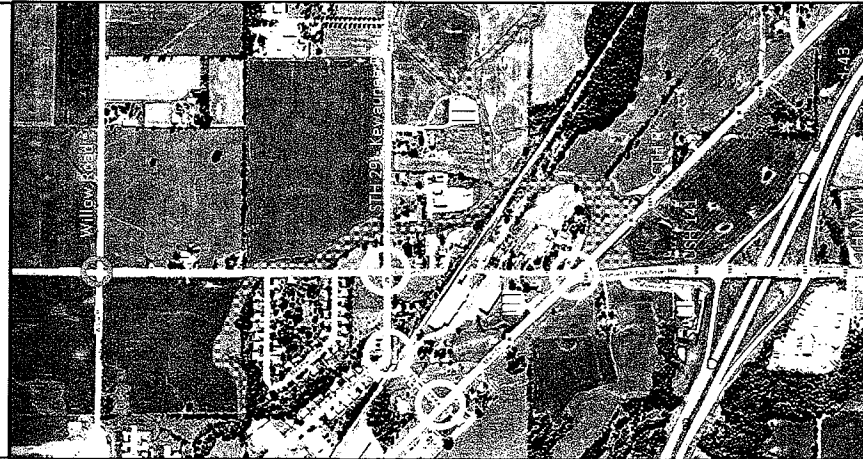


- Potential Wetlands/Environmentally Sensitive Area
- Proposed Corridor
- Possible Improvements at Existing Intersections
- Proposed Roundabout (Brown County)

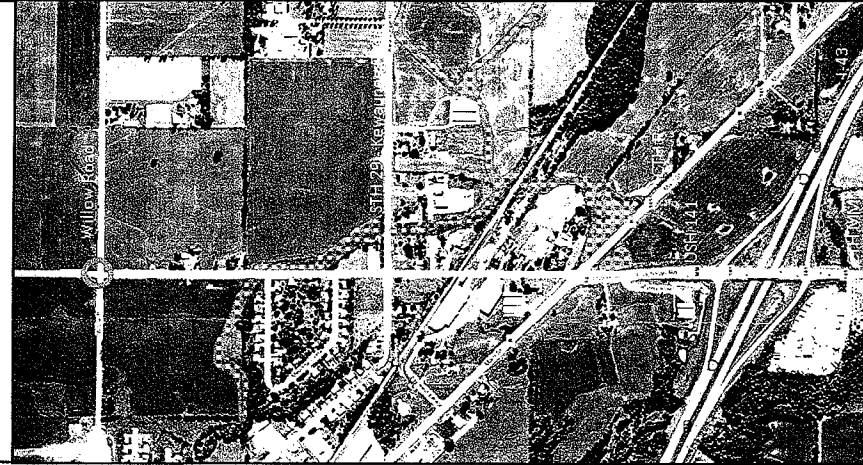
## Impact Summary Table

Evaluation Criteria	Alt. #1	Alt. #2	Alt. #3	Alt. #4
Costs				
Real Estate	\$84,000	\$207,000	\$739,000	\$657,000
Construction	\$2,570,000	\$3,240,000	\$4,980,000	\$4,170,000
<b>Total Costs:</b>	<b>\$2,654,000</b>	<b>\$3,447,000</b>	<b>\$5,719,000</b>	<b>\$4,827,000</b>
Land Conversion				
Residential Property to new ROW	0.54	0.74	2.87	2.87
Commercial Property to new ROW	0	1.40	1.61	0.37
Agricultural Property to new ROW	1.99	2.40	14.53	13.38
Other Area to new ROW	0.73	0.73	0	0
<b>Total Area Converted to ROW:</b>	<b>3.26</b>	<b>5.27</b>	<b>19.01</b>	<b>16.62</b>

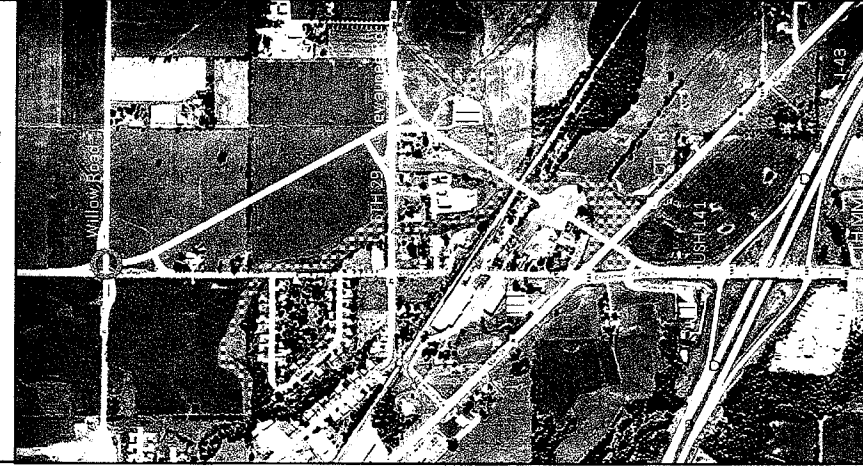
Alternative 1



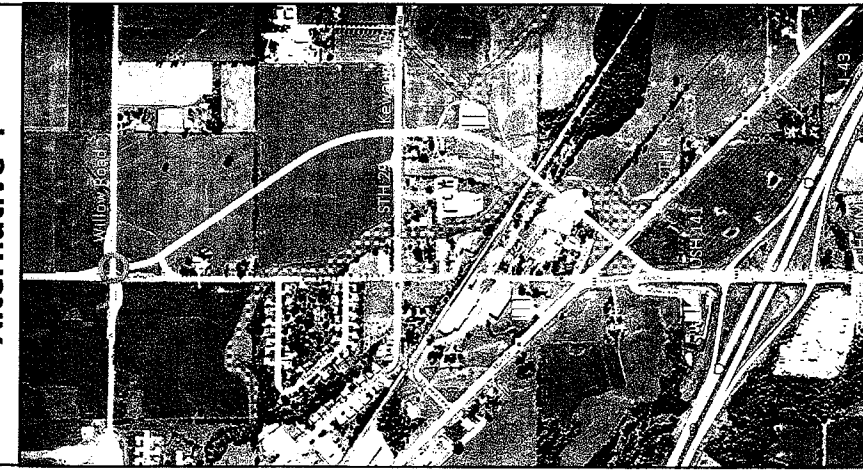
Alternative 2



Alternative 3



Alternative 4





**STAFF REPORT TO THE  
BROWN COUNTY BOARD OF SUPERVISORS  
PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE**

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**Progress on the  
CTH GV Reconstruction Project Study**

Brown County Planning Commission and Highway Department  
April 26, 2010

The following tasks were completed between March 15 and April 19, 2010, for the CTH GV Reconstruction Project Study:

**Examine the land uses that are planned for the project corridor.**

- Brown County Planning Commission (BCPC) staff is continuing its examination of the area's land use plans to estimate future traffic volumes, trip origins, and trip destinations.

**Identify the amount of developable land for each parcel along the project corridor.**

- BCPC staff continues to work with the communities to complete this task.

**Use the developable land, planned land use, and other information to calculate appropriate assessments for property owners along the project corridor.**

- Bellevue and Ledgeview continue to consider assessment options for the corridor.

**Identify the sections of CTH GV that require patching or other spot improvements prior to the reconstruction project.**

- The Highway Department is in the process of identifying and fixing sections of CTH GV that require patching or other spot improvements.

**Proceed with right-of-way acquisition and utility installation along the east side of the CTH GV corridor and around the CTH G intersection.**

- A public information meeting was held on Tuesday, March 23, 2010, at the Ledgeview Town Hall to present the intersection's design and answer questions about the project.
- The Highway Department will seek appraisals for the roundabout right-of-way and will begin acquiring the necessary land after the appraisals are received. The roundabout is scheduled to be constructed in August of 2010.

**Identify the likely location of a new Fox River bridge and street/highway corridor through the Environmental Impact Statement (EIS) process.**

- The EIS Lead Agencies (the BCPC, WisDOT, and the Federal Highway Administration) have received written support for the four recommended corridor alternatives from two Cooperating Agencies. The next steps in the process are to present the alternatives to the public, receive concurrence from the remaining Cooperating Agencies, and begin studying the alternatives in greater detail.
- Each of the four alternatives identified by the EIS Lead Agencies includes a CTH GV connection to STH 172.

**Apply for and receive the necessary permits from the appropriate state and federal environmental agencies.**

- The Brown County Highway Department will apply for the permits as the highway is being designed.

**Determine if the reconstructed highway should be four lanes or if another design would be more appropriate.**

- This task will be completed at the end of the study.

**Monitor the progress of the FEMA floodway/floodplain mapping project and use this information to finalize the highway's design.**

- The FEMA floodway/floodplain mapping project is finished, and this information will be used by the Highway Department to finalize the highway's design.

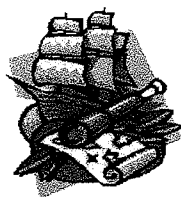
A chart showing staff's progress between March 15 and April 19, 2010, is attached to this report.

# Status of CTH GV Reconstruction Project Study Tasks: April 26, 2010

Status	Task	Responsible Parties	March 2009	April 2009	May 2009	June 2009	July 2009	August 2009	Sept. 2009	Oct. 2009	Nov. 2009	Dec. 2009	Jan. 2010
Completed	Receive written postponement agreements from Bellevue and Ledgeview.	BCPC, Bellevue, & Ledgeview											
Completed	Consult with WisDOT concerning use of CTH GV as detour during STH 172 project.	BCPC & BC Highway											
In Progress	Examine the land uses planned for CTH GV corridor.	BCPC, Bellevue, & Ledgeview											
In Progress	Identify the amount of developable land for each parcel along CTH GV corridor.	BCPC, Bellevue, & Ledgeview											
In Progress	Calculate appropriate assessments for property owners along CTH GV corridor.	Bellevue & Ledgeview											
In Progress	Identify sections of CTH GV that require patching or other spot improvements.	BC Highway											
Starting Soon	Proceed with ROW acquisition and utility installation.	BC Highway											
In Progress	Identify likely location of new Fox River bridge & street/highway corridor through EIS process.	BCPC											
Starting Soon	Apply for and receive permits from state and federal environmental agencies.	BC Highway											
Nearly Completed	Determine if design of CTH GV should continue to be four lanes.	BCPC, BC Highway, Bellevue, & Ledgeview											
At End of Study	Use completed FEMA floodway/floodplain maps to finalize design of CTH GV.	BC Highway											

## February-10

16



# BAY VIEW MIDDLE SCHOOL

*Charting a Course Toward Success*

[www.hssd.k12.wi.us/bayview](http://www.hssd.k12.wi.us/bayview)

1217 Cardinal Lane, Green Bay, WI 54313

Phone (920)662-8196 Fax (920) 662-7979

Joseph N. Wallander  
*Associate Principal*

Steven J. Meyers  
*Principal*

Joseph W. Feldhausen  
*Dean of Students/GT*

April 15, 2010

**RECEIVED**

APR 20 2010

BROWN COUNTY  
HIGHWAY DEPARTMENT

Brian Lamers  
Hwy Commissioner  
2198 Glendale Avenue  
Green Bay, WI 54313

Dear Mr. Lamers:

Now that we have had the new roundabout in operation at the intersection of Cardinal and Woodale for three-quarters of the school year, I would like to express my appreciation and how well the roundabout has contributed to the traffic and safety of this intersection in front of our school.

As you know, Bay View Middle School has over 800 students who arrive by bus, vehicle, bike or walking. As this traffic converges between 7:00 and 7:20 AM and leaves our school between 2:40 and 3:00 PM. From the first day of school, we noticed a greatly increased traffic flow, which assisted in our drop off and pick up and reduced safety concerns as well.

When the intersection was a 4-way stop, cars were lined up sometimes 15-20 deep on Cardinal Lane. With the round about, there are no more than 2-3 cars entering the intersection at any one time.

Furthermore, I have not received one complaint or concern regarding traffic flow or safety. I contribute this to the success of the roundabout project and how the county, village and school district worked together to plan and implement new pick up and drop off procedures.

Thank you once again for the quality planning and work that went into the roundabout at Cardinal and Woodale.

Should you have any questions or in need of further information, please feel free to contact me.

Sincerely,

Steven J. Meyers  
Principal

## Corporation Counsel

305 E. WALNUT STREET  
P.O. BOX 23600  
GREEN BAY, WI 54305-3600



John F. Luetscher

PHONE (920) 448-4006  
luetscher\_jf@co.brown.wi.us

FAX (920) 448-4003

April 7, 2010

Mr. Bernie Erickson  
Chairperson  
Planning, Development and Transportation Committee  
Brown County Board of Supervisors  
305 East Walnut Street  
P.O. Box 23600  
Green Bay, WI 54305

RE: County Regulation of Wind Energy Systems

Dear Mr. Erickson:

You requested information and an opinion on the county's authority to regulate wind energy systems. All county authority derives exclusively from state statutes and rules.

Wisconsin statutes create two different regulatory schemes for wind energy systems. Systems designed for operation at a nominal capacity of 100 megawatts or more are governed exclusively by state statute and regulation. The agency administering these laws is the Public Service Commission (PSC). The PSC regulates the siting, design and construction of the large systems through a "Certificate of Public Convenience and Necessity" (CPCN). This procedure and the rules apply to all large electric generating systems and not just wind energy systems. The Ledge Wind Energy Project proposed for rural Brown County is projected to have a 150 megawatt nominal operating capacity. The proponents of the Ledge Wind Project have an application for a CPCN pending with PSC. No statute grants Brown County authority to regulate a large Wind Energy System. Indeed, Sec. 196.491(3)(i) Wis. Stats. specifically states a facility with a CPCN need not comply with a local ordinance that precludes or inhibits the facility. The county has no regulatory authority over a wind energy system with an operating capacity of 100 megawatts or more.

Counties and other political subdivisions of the state do have limited authority to regulate wind energy systems with nominal operating capacities under 100 megawatts. Secs. 66.0401 and 66.0403 Wis. Stats., as amended by 2009 Wis. Act 40, grant political subdivisions power to

restrict wind and solar energy systems within limits. The statute limits a local political division's authority in two ways. First, the state has directed the PSC to create regulations that prescribe what restrictions or limits a political subdivision can enact. The statutes prohibit any political subdivision from enacting more stringent rules than those allowed by these regulations (The PSC is drafting these regulations at this time).

The second way the state has limited local political subdivision authority is by creating three mandatory standards in the statute (Sec. 66.0401(1m) Wis. Stats.) The statute prohibits a political subdivision from placing any restriction on a small scale wind energy system unless the restriction meets one of the three standards. Sec. 66.0401 Wis. Stats give local subdivisions power to impose restrictions consistent with PSC regulations and one of the three statutory standards. This statute is not a broad grant of regulatory authority to political subdivisions. It is accurate to say the statute prohibits a political subdivision from restricting any wind energy system unless there are individual findings made in compliance with the regulations and at least one of the three standards in the statute.

In a recent decision of the Wisconsin Court of Appeals, *Ecker Brothers v. Calumet County*, 2009 WI App 112, the court held, Secs. 66.0401 and 66.0403 Wis. Stats., did not authorize Calumet County to enact an ordinance creating a "permit system" with across-the-board rules for wind energy systems. The court held the county had no authority to enact broad restrictions on wind energy systems. According to the court, Sec. 66.0401 Wis. Stats. requires a case-by-case approach to wind energy systems comparable to the procedure followed when a property owner applies for a conditional use permit from a zoning agency. The court's opinion came down before the recent amendments to the statutes in 2009 Wis. Act 40, however, the amendments do not undermine the court's opinion.

A county's authority to restrict small scale wind energy systems is limited to applications for approval of systems to be located in unincorporated areas of the county (see sec.66.0401(6) Wis. Stats.). Towns have authority to enact wind energy ordinances under the same statutes. If both a county and a town have wind energy ordinances applying in an unincorporated area then the more restrictive provision of the two ordinances is to be applied. There are thirteen towns in Brown County. Eleven towns have enacted wind energy system ordinances and the Town of Lawrence is in the process of enacting one. Only the Town of Scott does not have a wind energy ordinance or a plan for one. A Brown County wind energy ordinance would apply exclusively in the Town of Scott. In the towns with competing wind energy ordinances a provision of the county ordinance would only apply if it was more restrictive than the town ordinance provision. Competing ordinances would be a recipe for confusion and a regulatory quagmire for town officials, county officials and any landowner affected by the ordinances.

It is no surprise almost all towns in Brown County have wind energy ordinances. These ordinances are an exercise of zoning authority. In Brown County, town governments maintain and exercise comprehensive zoning authority through ordinances. Brown County, unlike Calumet County, does not have a comprehensive zoning ordinance applicable in unincorporated areas. It would seem bizarre for Brown County to begin competing with the towns for zoning

authority over wind turbines in unincorporated areas when we do not exercise general zoning authority in the same area.<sup>1</sup>

To summarize, my conclusions are as follows:

- 1) The county has no authority to regulate a wind energy system with a nominal operating capacity of 100 megawatts or greater.
- 2) Counties and other local political subdivisions have limited authority to regulate and restrict wind energy systems smaller than 100 megawatts operating capacity. This authority is to be exercised on a case-by-case basis.
- 3) This authority does not allow political subdivisions to enact broad based across-the-board restrictions on wind energy systems.
- 4) If Brown County enacted a wind energy system ordinance it would exclusively apply in the Town of Scott and would "compete" with Town ordinances regulating wind energy systems in the twelve other towns.

In light of these conclusions, it is my opinion a countywide wind energy ordinance would have little or no impact on wind energy systems here or our county residents.

I recognize the Ledge Wind Energy Project proposed for the rural southwest portion of Brown County has generated interest in Wind Energy System regulation. The project application for a Certificate of Public Convenience and Necessity is currently pending before the PSC. Interested individuals, organizations and governmental entities can participate in this process. The easiest way for an interested person to obtain information and guidance is to visit the PSC website at "<http://www.psc.wi.gov>".

If you need further information or clarification, then please feel free to call on me.

Respectfully,

John F. Luetscher

CORPORATION COUNSEL

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<sup>1</sup> The state requires counties to implement and enforce zoning ordinances in specific areas. These areas include shoreland and flood plain zoning. I am excluding this zoning authority from comprehensive zoning of land use.



**Edward S. Marion, Attorney-at-Law  
716 Ottawa Trail  
Madison, WI 53711  
(608) 334-9741**

April 26, 2010

Mr. Carl W. Kuehne  
2050 Riverside Drive - Suite 307  
Green Bay, WI 54301

Dear Mr. Kuehne:

At your request, I have reviewed the February 12, 2010 letter from Brown County Corporation Counsel John F. Luetscher to Brown County Supervisor William M. Clancy, and the April 5, 2010 letter from attorney Frederick J. Mohr to Mr. Bernie Erickson, Chair of the Planning, Development and Transportation Committee of the Brown County Board of Supervisors, both regarding Brown County's authority to regulate wind energy systems of 100 megawatts ("MW") or more ("Large Wind Energy Systems").

I respectfully disagree with attorney Luetscher's and attorney Mohr's opinion that Brown County (the "County") has no authority to regulate Large Wind Energy Systems. In my opinion, the County has the power to, and good reasons to, enact and enforce a wind energy system ordinance applicable to Large Wind Energy Systems.

Local governments have the authority to restrict the installation or use of a wind energy system, as long as they do so in an ordinance, which serves to preserve or protect the public health or safety. Wis. Stat. § 66.0401 (1m)(a).<sup>1</sup> A "wind energy system" means "equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy." Wis. Stat. § 66.0403 (1e)(d). There is no limitation on the local government's authority by reason of the size of the system.

No person may construct a "large electric generating facility" without the approval of the Public Service Commission. A "large electric generating facility" is a facility of 100 MW or more. Wis. Stat. § 196.491 (1) (e) and (g) and (3) (a) 1. If the PSC has approved such a project, the project may not be "precluded or inhibited" by local ordinance. Wis. Stat. § 196.491 (3)(i); *American Transmission Co. v. Dane County*, 2008 WI App 2606.

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<sup>1</sup> Even if health or safety is not a concern, an ordinance may restrict wind energy systems, in addition to protecting public health or safety, if the ordinance does not significantly increase the cost of a system or decrease its efficiency, or allows for an alternative system of comparable efficiency. Wis. Stat. § 66.0401 (1m)(b) and (c).

Nothing prohibits a local government from enacting a wind energy system ordinance and applying it to a 100 or more MW system in the absence of a PSC decision. The very existence of such an ordinance would influence the PSC's decision whether or not to approve an application. The PSC must find that a proposed facility is in the public interest. The commission regularly considers whether or not local governments have regulations in place applicable to such facilities.

If the County is silent with respect to large wind energy systems, that would tell the PSC that the County sees no problem with such systems. The County, of course, may decide not to regulate large wind energy systems, but it is not forbidden by statute or case law to do so. Unless and until the PSC issues a certificate for the construction of a facility, an ordinance enacted in accordance with chapter 66 is valid and enforceable.<sup>2</sup>

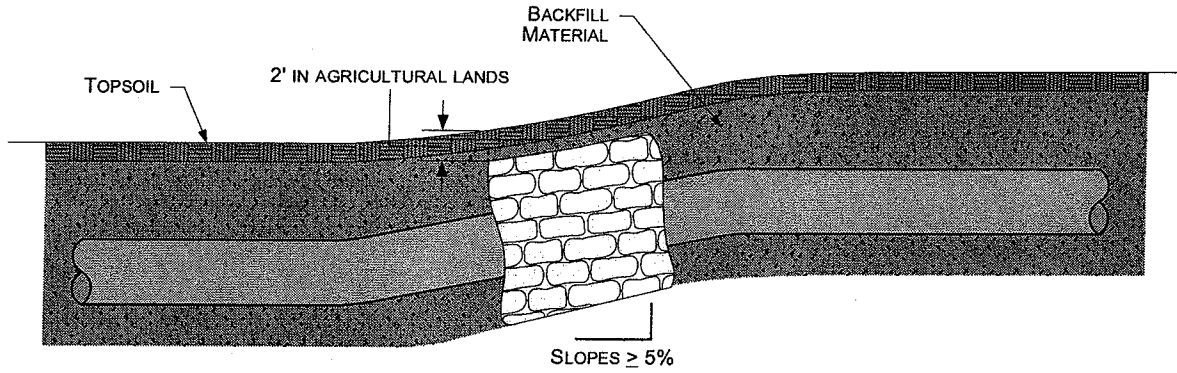
Very truly yours,

*/s/ Edward S. Marion*

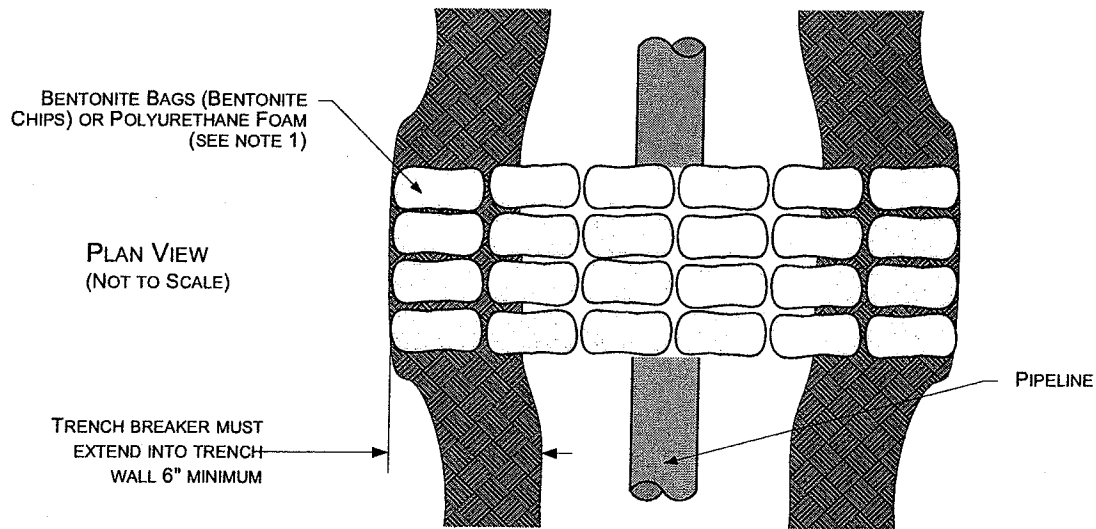
Edward S. Marion

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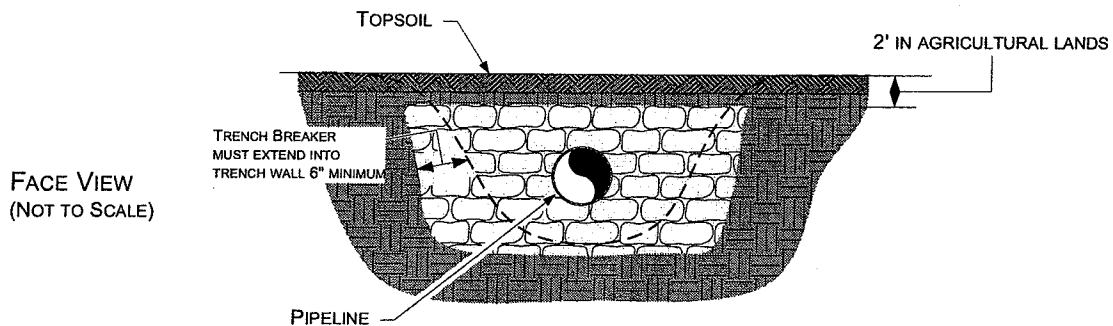
<sup>2</sup> Not discussed is the recently enacted provision requiring local ordinances to comply with PSC rules. Those rules have not been promulgated.



PROFILE VIEW  
(NOT TO SCALE)



PLAN VIEW  
(NOT TO SCALE)



FACE VIEW  
(NOT TO SCALE)

NOTES:

1. SAND BAGS MAY BE USED FOR TEMPORARY TRENCH BREAKERS FOR EROSION CONTROL (PRIOR TO INSTALLATION OF PIPE).
2. EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE INSPECTED AND MAINTAINED IN ACCORDANCE WITH THE COMPANY'S UPLAND EROSION CONTROL, REVEGETATION, AND MAINTENANCE PLAN.

For environmental review purposes only.



Detail 12  
Trench Breaker Installation

